

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

WP(C).No. 26634 of 2015 (D)

PETITIONER(S):

**V.N. MOHANAN PILLAI, AGED 54 YEARS,
S/O.V.N.NARAYANA PILLAI, PROPRIETOR,
VAYALIL TIMBERS, VELLAPPALLIL HOUSE,
MUKKOOTTUTHARA P.O. 686 510.
ERUMELY, KOTTAYAM DISTRICT.**

**BY ADVS.SRI.V.B.NARAYANAN
SRI.M.P.HARIKUMARAN PILLAI
SRI.C.SIVADAS**

RESPONDENT(S):

**1.THE AUTHORISED OFFICER/SENIOR MANAGER
INDIAN OVERSEAS BANK, REGIONAL OFFICE,
ERNAKULAM, KOCHI - 682 011.**

**2.INDIAN OVERSEAS BANK,
KANJIRAPPALLY BRANCH, PODIMATTOM COMPLEX,
NEAR BUS STAND, KANJIRAPPALLY - 686 507
KOTTAYAM DISTRICT, REP. BY ITS SENIOR MANAGER.**

R1 BY ADV.SRI.SUNIL SHANKAR, SC, INDIAN OVERSEAS BANK

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
04-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C).NO.26634/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE DEMAND NOTICE DATED 12.12.2014.

EXT.P2: COPY OF PASS BOOK OF THE LOAN ACCOUNT OF THE PETITIONER.

EXT.P3: COPY OF CASH RECEIPT DATED 28.3.2015.

**EXT.P4: COPY OF THE POSSESSION NOTICE ISSUED BY THE RESPONDENT
DATED 16.7.2015.**

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.26634 OF 2015 (D)

Dated this the 4th day of September, 2015

J U D G M E N T

The petitioner, who had availed of a cash credit facility from the respondent bank, defaulted in repayment of the same. Consequently, the respondent bank initiated proceedings under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. Ext.P4 is the possession notice issued to the petitioner under the SARFAESI Act. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing counsel appearing for the respondent Bank.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I note that the sole prayer

of the petitioner is to permit him to remit the balance amounts outstanding to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

(i) The total amount outstanding from the petitioner to the respondent bank, as on 16.7.2015, is stated to be Rs.44,57,199/- together with accrued interest. Accordingly, if the petitioner pays an amount of Rs.5,00,000/- on or before 30.9.2015, and the balance outstanding amount in three equal and successive monthly installments commencing from 30.10.2015, then the further proceedings for recovery, by the respondent bank, shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a default in respect of any of the installments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp